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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**KEVIN AMINI,  
INDIVIDUALLY AND ON  
BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,**

Plaintiff,

v.

**AUS MARKETING RESEARCH  
SYSTEMS, INC.; d/b/a SURVEY  
TECHNOLOGY & RESEARCH  
(STR); and d/b/a SOCIAL  
SCIENCE RESEARCH  
SOLUTIONS a.k.a. SSRS,**

Defendant.

**Case No.:**

**CLASS ACTION**

**COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF PURSUANT  
TO THE TELEPHONE CONSUMER  
PROTECTION ACT, 47 U.S.C. § 227,  
ET SEQ.**

**JURY TRIAL DEMANDED**

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## INTRODUCTION

1. KEVIN AMINI (“Plaintiff”) brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of AUS MARKETING RESEARCH SYSTEMS, INC.; d/b/a SURVEY TECHNOLOGY & RESEARCH (STR); and d/b/a SOCIAL SCIENCE RESEARCH SOLUTIONS a.k.a SSRS (“Defendant”) in negligently contacting Plaintiff on Plaintiff’s cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq., (“TCPA”), thereby invading Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.
2. The TCPA was designed to prevent calls like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA.”
3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors and telemarketers may call them, and made specific findings that “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer. TCPA, Pub.L. No. 102–243, § 11. Toward this end, Congress found that:
 

[b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

1 *Id.* at § 12;

- 2 4. Congress also specifically found that “the evidence presented to the  
3 Congress indicates that automated or prerecorded calls are a nuisance and an  
4 invasion of privacy, regardless of the type of call....” *Id.* at §§ 12-13.

#### 5 JURISDICTION AND VENUE

- 6 5. This Court has federal question jurisdiction because this case arises out of  
7 violation of federal law. 47 U.S.C. § 227(b).
- 8 6. Venue is proper in the United States District Court for the Central District of  
9 California pursuant to 28 U.S.C. § 1391 for the following reasons: (i)  
10 Plaintiff resides in the County of Orange, State of California which is within  
11 this judicial district; (ii) the conduct complained of herein occurred within  
12 this judicial district; and, (iii) many of the acts and transactions giving rise to  
13 this action occurred in this district because Defendant:

- 14 (a) is authorized to conduct business in this district and has  
15 intentionally availed itself of the laws and markets within this  
16 district;
- 17 (b) does substantial business within this district;
- 18 (c) is subject to personal jurisdiction in this district because it has  
19 availed itself of the laws and markets within this district; and,  
20 (d) the harm to Plaintiff occurred within this district.

#### 21 PARTIES

- 22 7. Plaintiff is, and at all times mentioned herein was, a citizen and resident of  
23 the County of Orange, State of California. Plaintiff is, and at all times  
24 mentioned herein was, a “person” as defined by 47 U.S.C. § 153 (3).
- 25 8. Defendant is, and at all times mentioned herein was, a corporation  
26 incorporated under the laws of the State of Pennsylvania with a primary  
27 corporate address at 155 Gaither Drive, Suite A, Mount Laurel, New Jersey,  
28 08054; and Defendant is a “person,” as defined by 47 U.S.C. § 153(39).

9. On information and belief, Plaintiff alleges that Survey Technology & Research (STR) (hereinafter “STR”) is a Fictitious Name registered in the State of Pennsylvania and owned by Defendant. STR is a data collection center that gathers consumer information using address-based sampling, outbound and inbound telephone calls, interactive voice response (IVR), digital sound management, full interview recording, mailing, and web-based interviewing. STR is a Pennsylvania entity with a principal place of business located at 894 Marcon Boulevard, Suite 200, Allentown, Pennsylvania, 18109; and it is an operating company, subsidiary, and/or agent acting on behalf or for the benefit of Defendant.

10. On information and belief, Plaintiff alleges that Social Science Research Solutions, a.k.a SSRS (hereinafter “SSRS”), is a Fictitious Name registered in the State of Pennsylvania and owned by Defendant. SSRS is a market and survey research firm. SSRS is a Pennsylvania entity with a principal place of business located at 53 West Baltimore Pike, Media, Pennsylvania, 19063; and it is an operating company, subsidiary, and/or agent acting on behalf or for the benefit of Defendant.

11. Plaintiff alleges that at all times relevant herein Defendant conducted business in the State of California, in the County of Orange, and within this judicial district.

#### FACTUAL ALLEGATIONS

12. Plaintiff alleges that at all times relevant herein Defendant conducted business in the State of California, County of Orange, and within this judicial district.

13. At no time did Plaintiff ever enter into a business relationship with Defendant.

14. Beginning sometime in July 2015, Defendant initiated multiple telephonic communications from telephone number (215) 383-3369 to Plaintiff’s

cellular telephone number ending in “8875” via an automatic telephone dialing system, as defined by 47 U.S.C. § 227(a)(1).

15. On July 20, 2015, at approximately 7:58 p.m. PST, Defendant initiated a telephone call from telephone number (215) 383-3369 to Plaintiff’s cellular telephone number ending in “8875.” Plaintiff answered this telephone call, however, Plaintiff only heard “dead air.”

16. On July 21, 2015, at approximately 8:15 p.m. PST, Defendant initiated a telephone call from telephone number (215) 383-3369 to Plaintiff’s cellular telephone number ending in “8875.”

17. On July 23, 2015, at approximately 7:26 p.m. PST, Defendant initiated a telephone call from telephone number (215) 383-3369 to Plaintiff’s cellular telephone number ending in “8875.”

18. On July 24, 2015, at approximately 7:20 p.m. PST, Defendant initiated a telephone call from telephone number (215) 383-3369 to Plaintiff’s cellular telephone number ending in “8875.” Plaintiff answered this telephone call, and was greeted by Defendant’s representative who stated that she was calling from an entity called “STR.”

19. On July 26, 2015, at approximately 11:51 a.m. PST, Defendant initiated a telephone call from telephone number (215) 383-3369 to Plaintiff’s cellular telephone number ending in “8875.” Plaintiff answered this telephone call and was greeted by Defendant’s representative who stated that she was calling from an entity called “SSRS.” During this call, Plaintiff asked Defendant’s representative to remove Plaintiff’s number from Defendant’s calling list.

20. Defendant’s calls were placed to telephone number assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls pursuant to 47 U.S.C. § 227(b)(1).

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21. On information and belief, Plaintiff believes that Defendant used an “automatic telephone dialing system” (or “ATDS”), as defined by 47 U.S.C. § 227(a)(1) to repeatedly call Plaintiff.

22. This ATDS has the capacity to store or produce telephone numbers to be called, using a random or sequential number generator.

23. These telephone communications constituted telephone solicitations, as defined by 47 U.S.C. § 227(a)(4).

24. Defendant did not have prior written express consent to call Plaintiff and make these solicitations, as defined by 47 U.S.C. § 227(a)(4).

25. Each of Defendant’s calls to Plaintiff constituted a call that was not for emergency purposes, as defined by 47 U.S.C. § 227(b)(1)(A)(i).

26. These telephone communications by Defendant and/or its agent violated 47 U.S.C. § 227(b)(1).

#### CLASS ACTION ALLEGATIONS

27. Plaintiff brings this action on behalf of himself and on behalf of all others similarly situated (“the Class”).

28. Plaintiff represents, and is a member of the Class, consisting of:

All persons within the United States who received any telephone call from Defendant or its agent/s and/or employee/s, not sent for emergency purposes, to said person’s cellular telephone made through the use of any automatic telephone dialing system and/or with an artificial or prerecorded message within the four years prior to the filing of this Complaint.

29. Defendant and its employees or agents are excluded from the Class.

Plaintiff does not know the number of members in the Class, but believes the Class members number in the hundreds of thousands, if not more. Thus, this matter should be certified as a Class action to assist in the expeditious litigation of this matter.

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1 30. Plaintiff and members of the Class were harmed by the acts of Defendant in  
2 at least the following ways: Defendants, either directly or through its agents,  
3 illegally contacted Plaintiff and the Class members via their cellular  
4 telephones by using an ATDS, thereby causing Plaintiff and the Class  
5 members to incur certain cellular telephone charges or reduce cellular  
6 telephone time for which Plaintiff and the Class members previously paid,  
7 and invading the privacy of said Plaintiff and the Class members. Plaintiff  
8 and the Class members were damaged thereby.

9 31. This suit seeks only damages and injunctive relief for recovery of economic  
10 injury on behalf of the Class, and it expressly is not intended to request any  
11 recovery for personal injury and claims related thereto. Plaintiff reserves the  
12 right to expand the Class definition to seek recovery on behalf of additional  
13 persons as warranted as facts are learned in further investigation and  
14 discovery.

15 32. The joinder of the Class members is impractical and the disposition of their  
16 claims in the Class action will provide substantial benefits both to the parties  
17 and to the court. The Class can be identified through Defendants' records or  
18 Defendants' agents' records.

19 33. There is a well-defined community of interest in the questions of law and  
20 fact involved affecting the parties to be represented. The questions of law  
21 and fact to the Class predominate over questions which may affect  
22 individual Class members, including the following:

- 23 a) Whether, within the four years prior to the filing of this Complaint,  
24 Defendant or its agents initiated any telephonic communications to the  
25 Class (other than a message made for emergency purposes or made  
26 with the prior express consent of the called party) to a Class member  
27 using any automatic dialing to any telephone number assigned to a  
28 cellular phone service;



- b) Whether Defendant can meet its burden of showing it obtained prior express consent (i.e., consent that is clearly and unmistakably stated);
- c) Whether Defendant's conduct was knowing and/or willful;
- d) Whether Plaintiff and the Class members were damaged thereby, and the extent of damages for such violation; and
- e) Whether Defendants and its agents should be enjoined from engaging in such conduct in the future.

34. As a person that received at least one telephonic communication from Defendant's ATDS without Plaintiff's prior written express consent, Plaintiff is asserting claims that are typical of the Class. Plaintiff will fairly and adequately represent and protect the interests of the Class in that Plaintiff has no interests antagonistic to any member of the Class.

35. Plaintiff and the members of the Class have all suffered irreparable harm as a result of the Defendants' unlawful and wrongful conduct. Absent a class action, the Class will continue to face the potential for irreparable harm. In addition, these violations of law will be allowed to proceed without remedy and Defendants will likely continue such illegal conduct. Because of the size of the individual Class member's claims, few, if any, Class members could afford to seek legal redress for the wrongs complained of herein.

36. Plaintiff has retained counsel experienced in handling class action claims and claims involving violations of the Telephone Consumer Protection Act.

37. A class action is a superior method for the fair and efficient adjudication of this controversy. Class-wide damages are essential to induce Defendants to comply with federal and California law. The interest of Class members in individually controlling the prosecution of separate claims against Defendants is small because the maximum statutory damages in an individual action for violation of privacy are minimal. Management of these



claims is likely to present significantly fewer difficulties than those presented in many class claims.

38. Defendant has acted on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the Class as a whole.

#### **FIRST CAUSE OF ACTION**

#### **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

#### **47 U.S.C. § 227 ET SEQ.**

39. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

40. The foregoing acts and omissions of Defendant constitutes numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

41. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq, Plaintiff and the Class are entitled to an award of \$500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B).

42. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

#### **SECOND CAUSE OF ACTION**

#### **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT**

#### **47 U.S.C. § 227 ET SEQ.**

43. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

44. The foregoing acts and omissions of Defendant constitutes numerous and multiple knowing and/or willful violations of the TCPA, including but not

1 limited to each and every one of the above-cited provisions of 47 U.S.C.  
 2 § 227 et seq.

3 45.As a result of Defendant's knowing and/or willful violations of 47 U.S.C.  
 4 § 227 et seq., Plaintiff and the Class are entitled to an award of \$1,500.00 in  
 5 statutory damages, for each and every violation, pursuant to 47 U.S.C.  
 6 § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

7 46.Plaintiff and the Class are also entitled to and seek injunctive relief  
 8 prohibiting such conduct in the future.

9 **PRAYER FOR RELIEF**

10 **WHEREFORE**, Plaintiff and the Class Members pray for judgment as follows:

- 11 • Certifying The Class as requested herein;
- 12 • Providing such further relief as may be just and proper.

13 In addition, Plaintiff and The Class Members pray for further judgment as  
 14 follows:

15 **FIRST CAUSE OF ACTION**  
 16 **FOR NEGLIGENT VIOLATION OF**  
 17 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

- 18 • As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1),  
 19 Plaintiff seeks for himself and each Class member \$500.00 in statutory  
 20 damages, for each and every violation, pursuant to 47 U.S.C.  
 21 § 227(b)(3)(B).
- 22 • Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such  
 23 conduct in the future.
- 24 • Any other relief the Court may deem just and proper.

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## CLASS ACTION COMPLAINT